United Nations A/58/579

General Assembly

Distr.: General
19 December 2003
English
Original: Arabic

Fifty-eighth session
Agenda item 131

Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Report of the Fifth Committee

Rapporteur: Mr. Fouad **Rajeh** (Saudi Arabia)

I. Introduction

1. At its 2nd plenary meeting, on 19 September 2003, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-eighth session the item entitled "Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the item at its 21st and 29th meetings, on 24 November and 18 December 2003. Comments and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/58/SR.21 and 29).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the budget for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other

03-66663 (E) 201203

Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 2004-2005 (A/58/269);

(b) Second performance report of the Secretary-General on the International Criminal Tribunal for Rwanda for the biennium 2002-2003 (A/58/597);

(c) Note by the Secretary-General on the accuracy of the cost estimates on the enforcement of sentences (A/58/367);

(d) Comprehensive report of the Secretary-General on the progress made by the International Criminal Tribunal for Rwanda in reforming its legal aid system (A/58/366);

(e) Report of the Secretary-General on supplementary estimates arising in respect of Security Council resolution 1503 (2003) on the creation of a new position of Prosecutor of the International Criminal Tribunal for Rwanda (A/58/368);

(f) Report of the Secretary-General on revised estimates arising in respect of Security Council resolution 1512 (2003) on the establishment of five additional ad litem judges in the International Criminal Tribunal for Rwanda (A/58/550);

(g) Reports of the Advisory Committee on Administrative and Budgetary Questions (A/58/554 and A/58/605).

II. Consideration of draft resolutions A/C.5/58/L.27 and A/C.5/58/L.38

4. At its 29th meeting, on 18 December, the Committee had before it two draft resolutions entitled "Second performance report on the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 2002-2003" (A/C.5/58/L.27) and "Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994" (A/C.5/58/L.38), which were submitted by the Chairman on the basis of informal consultations coordinated by the representative of Australia.

5. At the same meeting, the Committee adopted draft resolutions A/C.5/58/L.27 and A/C.5/58/L.38 without a vote (see para. 7 draft resolutions I and II).

6. After the adoption of the draft resolutions, a statement in explanation of position was made by the representative of Japan (see A/C.5/58/SR.29).

III. Recommendation of the Fifth Committee

7. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

Second performance report for the biennium 2002-2003 on the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations committed in the Territory of Neighbouring States between 1 January and 31 December 1994

The General Assembly,

Having considered the second performance report of the Secretary-General for the biennium 2002-2003 on the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994,[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

Recalling its resolution 49/251 of 20 July 1995 on the financing of the International Criminal Tribunal for Rwanda and its subsequent resolutions thereon, the latest of which were resolutions 56/248 A of 24 December 2001, 56/248 B of 27 March 2002 and 57/289 of 20 December 2002,

1. *Takes note* of the second performance report of the Secretary-General for the biennium 2002-2003 on the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994,[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions;[2]

2. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions;[2]

3. *Notes with concern* the late issuance of the second performance report of the Secretary-General for the biennium 2002-2003, bearing in mind the nature of the report and the period covered therein;

4. *Resolves* that, for the biennium 2002-2003, the amount of 203,962,600 United States dollars gross (182,870,700 dollars net) approved in its resolution 57/289 of 20 December 2002 for the budget of the International Criminal Tribunal for Rwanda, shall be adjusted by the amount of 4,517,100 dollars gross (4,392,200 dollars net) for a total amount of 208,479,700 dollars gross (187,262,900 dollars net).

[1] A/58/597.
[2] A/58/605.

Draft resolution II

Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

The General Assembly,

Having considered the reports of the Secretary-General on the financing for the biennium 2004-2005 of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

Recalling its resolution 49/251 of 20 July 1995, on the financing of the International Tribunal for Rwanda, and its subsequent resolutions thereon, the latest of which were resolutions 56/248 A of 24 December 2001, 56/248 B of 27 March 2002 and 57/289 of 20 December 2002,

Recalling also Security Council resolution 1503 (2003) of 28 August 2003, concerning the creation of a new position of Prosecutor of the International Tribunal for Rwanda,

Recalling further Security Council resolution 1512 (2003) of 27 October 2003, concerning the authorization for the use of up to nine additional ad litem judges in the International Tribunal for Rwanda,

Welcoming the developments and improvements in the management and the activities of the Tribunal thus far achieved during the biennium 2002-2003,

1. *Takes note* of the reports of the Secretary-General on the financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 2004-2005,[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions;[2]

2. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions, subject to the provisions of the present resolution;

3. *Notes with concern* the levels of unpaid assessed contributions, and urges Member States to pay their assessed contributions on time, in full and without conditions;

---

[1] A/58/269, A/58/366, A/58/368, A/58/550 and A/58/367.

[2] A/58/554.

4. *Welcomes* the efforts of the Secretary-General to present the proposed budget for the biennium 2004-2005 in a results-based format, and encourages him to make further progress in this regard;

5. *Requests* the Secretary-General to ensure that the report requested in paragraph 2 of resolution 55/226, as well as the views of the Board of Auditors thereon, is submitted to the General Assembly during the main part of its fifty-ninth session;

6. *Welcomes* the appointment of a Prosecutor and the authorization for the use of up to nine ad litem judges, as approved by the Security Council in its resolutions 1503 (2003) and 1512 (2003), and stresses the importance of ensuring that the Tribunal receives adequate financial and human resources to support its strengthened judicial capacity and to enable it to meet the targets set out in its completion strategy;

7. *Welcomes also* the efforts made by the Tribunal to enhance coordination between the Chambers, the Office of the Prosecutor and the relevant sections of the Registry, through the establishment of the various management committees;

8. *Requests* the Tribunal to continue to enhance its engagement with the defence counsel establishment in the facilitation of trial work;

9. *Welcomes* the development of the completion strategy, and invites the Tribunal to revise the strategy, where appropriate, to take into account the provisions of Security Council resolutions 1503 (2003) and 1512 (2003) and the resultant increased judicial capacity of the Tribunal;

10. *Requests* the Secretary-General to develop further the link between the Tribunal's completion strategy and objectives and the resources requested in future budget proposals;

11. *Concurs* with the view of the Advisory Committee on Administrative and Budgetary Questions that continued close collaboration between the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda is essential, and urges the Secretary-General to take all necessary measures to ensure such collaboration;

12. *Notes with concern* that the vacancy rate at the International Tribunal for Rwanda remains high, while acknowledging that the level has been reduced during the biennium 2002-2003, and requests the Secretary-General to take the necessary measures, as a matter of priority, to reduce the vacancy rate during the biennium 2004-2005, including, if appropriate, through delegating authority to the Registrar for recruitment in the Professional category and considering extending the contracts of core staff for longer periods, consistent with the staff regulations and rules, and bearing in mind the targets set in the completion strategy;

13. *Requests* the Secretary-General to continue, where appropriate, to prioritize and deploy resources in support of the completion strategy and to report thereon in the first and second performance reports;

14. *Also requests* the Secretary-General to undertake efficiency measures to streamline the work of the Tribunal and to provide an assessment of the financial impact of those measures in future budget proposals;

15. *Invites* the Security Council to continue to monitor closely the progress made by the Tribunal towards completing its mandate, in accordance with the completion strategy;

16. *Also invites* the Security Council to request the Secretary-General to make initial preparations, including establishing the rules of procedure, for the transfer of cases to national jurisdictions;

17. *Requests* the Secretary-General to report to the General Assembly at its fifty-ninth session on proposals for the necessary resources to aid in the transfer of cases to national jurisdictions;

18. *Decides* to maintain the current level of funding for consultants and experts;

19. *Also decides* to approve the proposed post and non-post resources for the Investigations Division for 2004 and to defer consideration of the resource requirements for the Investigations Division for 2005 to its fifty-ninth session;

20. *Requests* the Secretary-General to resubmit, in the first performance report for the biennium 2004-2005, proposals for the resource requirements for the Investigations Division for 2005 and to ensure that the proposals are adequate for the effective implementation of the completion strategy;

21. *Also requests* the Secretary-General to review the outreach programme of the Tribunal and to report to the General Assembly during the main part of its fifty-ninth session on optimal media for the dissemination of information on the work of the Tribunal and on the resources allocated to this function, and on how future outreach initiatives and coordination with other parts of the United Nations system support the completion strategy and contribute to the reconciliation process in Rwanda;

22. *Further requests* the Secretary-General to report on oversight functions in the Tribunal in the first performance report for the biennium 2004-2005, with specific reference to oversight of resources allocated for the upgrading of prison facilities to international standards;

23. *Requests* the Secretary-General to pursue the possibility of assistance to the Tribunal from the United Nations Office at Nairobi and other offices of the United Nations system to increase remote translation capabilities and to report on cost comparisons in the first performance report;

24. *Welcomes* the comprehensive report of the Secretary-General on the progress made by the Tribunal in reforming its legal aid system;[3]

25. *Requests* the Secretary-General to continue to reform the legal aid system, taking into account the recommendations contained in that comprehensive report or other reforms deemed more appropriate by the Tribunal, as a top priority, and to report on the implementation and consequent savings in defence costs in the performance report for the biennium 2004-2005;

26. *Decides* that a vacancy rate of 18.2 per cent for Professional staff and 9.7 per cent for General Service staff shall be used as a basis for the calculation of the budget for the biennium 2004-2005;

[3] A/58/366.

27. *Recalls* paragraph 3 of its resolution 57/289, in which it urged the Secretary-General to request the Office of Internal Oversight Services to conduct a management review of the Office of the former Prosecutor, and requests the Secretary-General to submit the report on the matter to the General Assembly no later than at its resumed fifty-eighth session;

28. *Decides* to appropriate to the Special Account for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 the total amount of 235,324,200 United States dollars for the biennium 2004-2005, as detailed in the annex to the present resolution;

29. *Decides also* that the total assessment for 2004 under the Special Account, amounting to 122,179,200 dollars, shall consist of:

(a) 117,662,100 dollars, being half of the estimated appropriation approved for the biennium 2004-2005;

(b) 4,517,100 dollars, being the increase in the final appropriation for the biennium 2002-2003 approved by the General Assembly in its resolution 58/__ of __ December 2003;

30. *Decides further* to apportion the amount of 61,089,600 dollars, being half of the total assessment for 2004, among Member States in accordance with the rates of assessment applicable to the regular budget of the United Nations for 2004, as set out in its resolution 58/__ of __ December 2003;

31. *Decides also* to apportion the amount of 61,089,600 dollars, being half of the total assessment for 2004, among Member States in accordance with the rates of assessment applicable to peacekeeping operations for 2004;

32. *Decides further* that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraphs 30 and 31 above, the amount of 11,149,250 dollars, consisting of:

(a) 11,024,350 dollars, being half of the estimated staff assessment income approved for the Tribunal for the biennium 2004-2005;

(b) 124,900 dollars, being the increase in staff assessment income for the biennium 2002-2003 approved by the Assembly in its resolution 58/__ of __ December 2003.

Annex

Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 2004-2005

(In United States dollars)

	Gross	*Net*
1. Estimated appropriation for the biennium 2004-2005	251 388 400	227 469 200
2. Recommendations of the Advisory Committee on Administrative and Budgetary Questions	-	-
3. Recommendations of the Fifth Committee	(16 064 200)	(14 193 700)
4. Revised estimated appropriation for the biennium 2004-2005	235 324 200	213 275 500
5. Estimated income for the biennium 2004-2005	-	-
6. Total assessment for 2004,[a] comprising:	**122 179 200**	**111 029 950**
(a) Requirements representing half of the estimated appropriation for the biennium 2004-2005	117 662 100	106 637 750
(b) Requirements arising from the final appropriation for the biennium 2002-2003	4 517 100	4 392 200
Including:		
Contributions assessed on Member States in accordance with the rates of assessment applicable to the regular budget of the United Nations for 2004	61 089 600	55 514 975
Contributions assessed on Member States in accordance with the rates of assessment applicable to peacekeeping operations of the United Nations for 2004	61 089 600	55 514 975

[a] For 2005, the relevant amount will be assessed by the General Assembly at its fifty-ninth session.